

**APPENDIX TO PETITION FOR WRIT OF
CERTIORARI**

Rafael Paredes v. United Airlines, Inc.

No. _____

TABLE OF CONTENTS

Appendix A — U.S. District Court for the District of New Jersey Opinion and Judgment (Feb. 6, 2023)	1a
Dismissed claim of retaliation under Title VII with prejudice as time barred.	
Appendix B — U.S. District Court for the District of New Jersey Final Order (Mar. 18, 2024)	3a
Ordered that the Amended Complaint (ECF No. 45) is hereby DISMISSED with prejudice.	
Appendix C — U.S. Court of Appeals for the Third Circuit Order (Mar. 19, 2024)	5a
Affirming the judgment of the District Court.	
Appendix D — U.S. Court of Appeals Judgment (Dec. 17, 2024)	7a
Judgment entered pursuant to Fed. R. App. P. 36.	
Appendix E — U.S. Court of Appeals Order (Jan. 29, 2025)	10a
Order directing Petitioner to bring petition for rehearing into compliance.	

Appendix F — U.S. Court of Appeals Order
(May 29, 2025) 12a
Denial of Petition for Rehearing in Case No. 24-1585.

Appendix G — Performance and Progress
Review (2014) 14a
Document showing crossed-out and altered rating.
Reflects adverse action linked to FMLA leave.

Appendix H — EEOC Filing and
Documentation of Disability/
Protected Activity
(Nov. 12, 2015) and (2020) 16a
Copy of EEOC intake form dated November 12, 2015,
and again in 2020.

Appendix I — U.S. Court of Appeals for the
Third Circuit Final Order
(Jun. 6, 2025) 18a
Order denying all pending motions and advising that
no further filings will be considered by the Court.
Petitioner directed to seek certiorari from the U.S.
Supreme Court. (Dkt. 71)

APPENDIX A
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RAFAEL PAREDES,
Plaintiff

v.

UNITED AIRLINES,
INC., *et al.*,
Defendants.

Civil Action
No. 21-17091
(JXN)(JRA)

ORDER

NEALS, District Judge

THIS MATTER comes before the Court on Defendant United Airlines, Inc.'s ("Defendant") motion to dismiss Plaintiff Rafael Paredes's ("Plaintiff") Complaint pursuant to Fed. R. Civ. P. 12(b)(6). (ECF No. 4.) Plaintiff opposed the motion (ECF No. 7), and Defendant replied in further support (ECF No. 8). The Court has carefully considered the parties' submissions and decides this matter without oral argument pursuant to Fed. R. Civ. P. 78 and L. Civ. R. 78.1. For the reasons stated in the accompanying Opinion,

IT IS on this 6th day of February 2023,

ORDERED that Defendant's motion to dismiss Plaintiff's Complaint (ECF No. 4) is **GRANTED**; it is further

ORDERED that Plaintiff's claim for retaliation under Title VII is **DISMISSED with prejudice** as time barred; and it is further

ORDERED that Counts One, Two, Three, and Four are **DISMISSED without prejudice** and with

LEAVE TO AMEND within thirty (30) days from the date of this Order curing the deficiencies as set in the accompanying Opinion.

/s/ Julien Xavier Neals
JULIEN XAVIER NEALS
United States District Judge

APPENDIX B
UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

RAFAEL PAREDES,
Plaintiff

v.

UNITED AIRLINES,
INC., *et al.*,
Defendants.

Civil Action
No. 21-17091
(JXN)(JRA)

ORDER

NEALS, District Judge

THIS MATTER having been opened to the Court by Defendant United Airlines, Inc.'s ("United") motion to dismiss Plaintiff Rafael Paredes' ("Plaintiff") Second Amended Complaint pursuant to Fed. R. Civ. P. 12(b)(6) (ECF No. 46) and motion for sanctions pursuant to Fed. R. Civ. P. 11 (ECF No. 47). Plaintiff opposed the motions (ECF Nos. 49, 50), and United replied in further support (ECF Nos. 51, 52). Jurisdiction and venue are proper pursuant to 28 U.S.C. §§ 1332 and 1391, respectively. The Court having considered the forgoing submissions and having heard the oral argument of the parties and issued its findings and rulings from the bench. For reasons set forth at the March 18, 2024 hearing and for other good cause shown;

IT IS on this 18th day of March, 2024,

ORDERED that Plaintiff's Second Amended Complaint (ECF No. 45) is hereby **DISMISSED with prejudice**, it is further

ORDERED that United's Motion to Impose Sanctions is **DENIED**; and is further

ORDERED that the Clerk of Court shall **CLOSE** this matter.

/s/ Julien Xavier Neals
JULIEN XAVIER NEALS
United States District Judge

APPENDIX C
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1585

RAFAEL PAREDES,
Appellant

v.

UNITED AIRLINES, INC.; JOHN DOE 1-20,
Fictitious Business Entities; TOM ROE 1-20,
Fictitious Persons; RAUL VENTURA

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 2-21-cv-17091)
District Judge: Honorable Julien Xavier Neals

Submitted Pursuant to Third Circuit LAR 34.1 (a)
December 4, 2024

Before: RESTREPO, MATEY, and CHUNG, Circuit
Judges

JUDGEMENT

This cause came to be considered on the record from the United States District Court for the District of New Jersey and was submitted pursuant to Third Circuit LAR 34.1 (a) on December 4, 2024. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered March 19, 2024, be and the same hereby is affirmed. Costs are taxed against appellant. All of the above in accordance with the opinion of this Court.

APPENDIX D

(On letterhead from the Office of the Clerk)

OFFICE OF THE CLERK

PATRICIA S. DODSZUWEIT	UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT	TELEPHONE
CLERK	21400 UNITED STATES COURT- HOUSE	215-597-2995
(Seal)	601 MARKET STREET PHILADELPH IA, PA 19106- 1790	
	Website: www.ca3.uscourts.gov	

December 17, 2024

Kegan S. Andeskie
Robin H. Rome
Nukk Freeman & Cerra
26 Main Street, Suite 202
Chatham, NJ 07928

Rafael Paredes

800 Bronx River Road
Apartment A31
Yonkers, NY 10708

RE: Rafael Paredes v. United Airlines Inc, et al
Case Number: 24-1585
District Court Case Number: 2-21-cv-17091

ENTRY OF JUDGMENT

Today, **December 17, 2024**, the Court entered its judgment in the above-captioned matter pursuant to Fed. R. App. P. 36.

If you wish to seek review of the Court's decision, you may file a petition for rehearing. The procedures for filing a petition for rehearing are set forth in Fed. R. App. P. 35 and 40, 3rd Cir. LAR 35 and 40, and summarized below.

Time for Filing:

14 days after entry of judgment
45 days after entry of judgment in a civil case if the United States is a party.

Form Limits:

3900 words if produced by a computer, with a certificate of compliance pursuant to Fed. R. App. P. 32(g).

15 pages if hand or type written.

Attachments:

A copy of the panel's opinion and judgment only.

Certificate of service.

Certificate of compliance if petition is produced by a computer.

No other attachments are permitted without first obtaining leave from the Court.

Unless the petition specifies that the petition to Fed.R.App.P. 39 must file an itemized and verified bill of costs within 14 days from the entry of judgment. The bill of costs must be submitted on the proper form which is available on the court's website.

A mandate will be issued at the appropriate time in accordance with the Fed. R. App. P. 41.

Please consult the Rules of the Supreme Court of the United States regarding the timing and requirements for filing a petition for writ of certiorari.

Very truly yours,
Patricia S. Dodszuweit, Clerk

By: s/ Timothy/cjg
Case Manager
267-299-4953

APPENDIX E
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1585

Rafael Paredes v. United Airlines Inc, et al

(U.S. District Court No.: 2:21-cv-17091)

ORDER

The Court has received a from **Rafael Paredes**. The requirements for a petition for rehearing are set forth in Fed. R. App. P. 32(g), 40 and 3d Cir. L.A.R. 35.1. The does not comply with the following Court requirement(s):

The petition was not filed within the applicable deadline. Fed. R. App. P. 40(d)(1).

In order to bring the petition for hearing into compliance, a motion to file the petition for rehearing out of time must be filed on or before **February 12, 2025**. No action will be taken on the petition for rehearing until any deficiencies are corrected.

Pursuant to 3rd Cir. L.A.R. Misc. 107.3 and 3rd Cir. L.A.R. Misc. 113, if the Court finds that a party continues not to be in compliance with the rules

despite notice by the Clerk, the Court may, in its discretion, impose sanctions as it may deem appropriate, including but not limited to the dismissal of the appeal, imposition of costs or disciplinary sanctions upon a party or counsel.

For the Court,

s/ Patricia S. Dodszuweit

Clerk

Dated: January 29, 2025

TMM/cc: Kegan S. Andeskie, Esq.

Rafael Paredes

Robin H. Rome, Esq.

APPENDIX F
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 24-1585

RAFAEL PAREDES,
Appellant

v.

UNITED AIRLINES, INC.; JOHN DOE 1-20,
Fictitious business Entities; TOM ROE 1-20,
Fictitious persons; RAUL VENTURA

(D.C. No.: 2:21-cv-17091)

SUR PETITION FOR REHEARING

Present: CHAGARES, Chief Judge, SHWARTZ,
KRAUSE, RESTREPO, BIBAS, PORTER, MATEY,
PHIPPS, FREEMAN, MONTGOMERY-REEVES,
and CHUNG, Circuit Judges

The petition for rehearing filed by Appellant in the above-entitled case having been submitted to the judges who participated in the decision of this Court and to all the other available circuit judges of the circuit in regular active service, and no judge who

concurred in the decision having asked for rehearing, and a majority of the judges of the circuit in regular service not having voted for rehearing, the petition for rehearing by the panel and the Court en banc, is denied.

By the Court,

s/ L. Felipe Restrepo
Circuit Judge

Dated: May 29, 2025

APPENDIX G

UNITED 

Performance Rating Confirmation - 2014 Year-End Rating

Name: Rafael Paredes

Title: Supv Airport Operations - EWR

Rating: Off Track

Goal Progress/Achievement

- Employee successfully achieved his/her individual goals.
- Employee's goals were appropriate for his/her role; employee effectively secured and managed resources to meet his/her individual goals.

Working Together Philosophy

Focusing on the Future Delivering Today		Rating
<ul style="list-style-type: none"> • Responds Promptly • Works safely • Looks for better ways to do things • Modifies direction and priorities as appropriate • Comes to work with a positive attitude and energy 		Consistently meets and may occasionally exceed expectations.

Building on Dignity and Respect		Rating
<ul style="list-style-type: none"> • Respects and accepts others • Remains calm in stressful situations • Displays consistency between words and actions • Uses data to make good decisions • Informs people and gives feedback to help co-workers learn from experience 		Consistently meets and may occasionally exceed expectations.

Powering through Teamwork		Rating
<ul style="list-style-type: none"> • Builds relationships • Uses words such as "we" instead of "them" • Fairly evaluates options before making decisions • Utilizes others' strengths and knowledge • Is approachable 		Consistently meets and may occasionally exceed expectations. <i>✓</i> //

03-Jun-2015

2014
UNITED

Making the Difference	Rating
<ul style="list-style-type: none">• Aligns work/goals with the United Route Map• Gets the job done through dedication and persistence• Recognizes others and gives credit where appropriate• Works hard• Takes on new challenges that support the business	Consistently meets and may occasionally exceed expectations.
Fostering Open, Honest and Direct Communication	Rating
<ul style="list-style-type: none">• Is available• Listens well to others• Shares information• Admits mistakes and makes corrections• Finds new and innovative solutions	Consistently meets and may occasionally exceed expectations.

03-Jun-2015
15a

APPENDIX H

CHARGE OF DISCRIMINATION <small>This form is affected by the Privacy Act of 1974. See enclosed Privacy Act Statement and other information before completing this form.</small>		Charge Presented To: <input type="checkbox"/> FEPA <input checked="" type="checkbox"/> EEOC	Agency(ies) Charge No.: 624-2015-01204		
New Jersey Division On Civil Rights					
<small>State or Local Agency, if any</small>		<small>and EEOC</small>			
<small>Name (Indicate Mr., Ms., Mrs.)</small> Mr. Rafael Paredes		<small>Home Phone (Ind. Area Code)</small>			
<small>Street Address</small> 153 Oliver Avenue, Yonkers, NY 10707		<small>City, State and ZIP Code</small>			
<small>Named is the Employer, Labor Organization, Employment Agency, Apprenticeship Committee, or State or Local Government Agency that I Believe Discriminated Against Me or Others (if more than two, list under PART I/CULARS below)</small>					
<small>Name</small> UNITED AIRLINES		<small>No. Employees/Members</small> 500 or More	<small>Phone No. (Include Area Code)</small> (973) 681-3493		
<small>Street Address</small> 1 Terminal C, Newark, NJ 07114		<small>City, State and ZIP Code</small>			
<small>Name</small>		<small>No. Employees/Members</small>	<small>Phone No. (Include Area Code)</small>		
<small>Street Address</small>		<small>City, State and ZIP Code</small>			
<small>DISCRIMINATION BASED ON (Check appropriate boxes)</small>					
<input type="checkbox"/> RACE	<input type="checkbox"/> COLOR	<input type="checkbox"/> SEX	<input type="checkbox"/> RELIGION	<input type="checkbox"/> NATIONAL ORIGIN	<small>DATE(S) DISCRIMINATION TOOK PLACE</small>
<input type="checkbox"/> RETALIATION	<input type="checkbox"/> AGE	<input checked="" type="checkbox"/> DISABILITY	<input type="checkbox"/> GENETIC INFORMATION	<small>Earliest</small> 04-12-2015	<small>Latest</small> 04-13-2015
<small>OTHER (Specify)</small>				<input type="checkbox"/> CONTINUING ACTION	
<small>THE PARTICULARS ARE (If additional paper is needed, attach extra sheets)</small> <p>I was hired by the above named employer on or about September 17, 1997. My most recent position title was that of Airport Operations Supervisor.</p> <p>On or about April 12 to April 13, 2015, I received a year end off track rating and was subsequently denied a raise. I feel that this occurred because of my disability, since I do not feel I had valid poor performance issues.</p> <p>Accordingly, I feel I have been discriminated against on the basis of disability, in violation of the Americans with Disabilities Act, as amended.</p>					
<small>I want this charge filed with both the ELOC and the State or local Agency, if any. I will advise the agencies if I change my address or phone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.</small>		<small>NOTARY - When necessary for State and Local Agency Submission</small>			
<small>I declare under penalty of perjury that the above is true and correct</small>		<small>I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief</small> <small>SIGNATURE OF COMPLAINANT</small>			
<small>11/9/15</small> <i>Rafael C. Paredes</i> <small>Date</small>		<small>CHARGING PARTY SIGNATURE</small> <small>SUBSCRIBED AND SWEORN TO BEFORE ME THIS DATE</small> <small>11/9/15</small>			

CONFIDENTIAL

UA-000475

**U.S. Equal Employment Opportunity Commission
Newark Area Office**

283-299 Market Street
Two Gateway Center, Suite 1703
Newark, NJ 07102
(973) 645-4684
TTY (973) 645-3004
Fax: (973) 645-4524

Respondent: UNITED AIRLINES
EEOC Charge No.: 524-2020-01102
FEPA Charge No.:

July 20, 2020

Rafael Paredes, Sr.
162-164 Miller st
apt. 405
Newark, NJ 07114

Dear Paredes:

This is with reference to your recent written correspondence or intake questionnaire in which you alleged employment discrimination by the above-named respondent. The information provided indicates that the matter complained of is subject to the statute(s) checked off below:

- Title VII of the Civil Rights Act of 1964 (Title VII)
- The Age Discrimination in Employment Act (ADEA)
- The Americans with Disabilities Act (ADA)
- The Equal Pay Act (EPA)
- The Genetic Information Nondiscrimination Act (GINA)

The attached EEOC Form 5, Charge of Discrimination, is a summary of your claims based on the information you provided. Because the document that you submitted to us constitutes a charge of employment discrimination, we have compiled with the law and notified the employer that you filed a charge. Before we investigate your charge, however, you must sign and return the enclosed Form.

To enable proper handling of this action by the Commission you should:

- (1) Review the enclosed charge form and make corrections.
- (2) Sign and date the charge in the bottom left hand block where I have made an "X". For purposes of meeting the deadline for filing a charge, the date of your original signed document will be retained as the original filing date.
- (3) Return the signed charge to this office.

Before we initiate an investigation, we must receive your signed Charge of Discrimination (EEOC Form 5). Please sign and return the charge within thirty (30) days from the date of this letter. Under EEOC procedures, if we do not hear from you within 30 days or receive your signed charge within 30 days, we are authorized to dismiss your charge and issue you a right to sue letter allowing you to pursue the matter in federal court. Please be aware that after we receive your signed Form 5, the EEOC will send a copy of the charge to New Jersey Division On Civil Rights P.O. Box 46001 31 Clinton Street 3rd floor Newark, NJ 07102 as required by our procedures. If that agency processes the charge, it may require the charge to be signed before a notary public or an agency official. The agency will then investigate and resolve the charge under their statute.

125-2

APPENDIX I
United States Court of Appeals
For The Third Circuit

Notice of Docket Activity

The following transaction was filed on 06/06/2025

Case Name: Rafael Paredes v. United Airlines
Inc, et al

Case Number: 24-1585

Document(s): Docket Entry #71

Docket Text:

ORDER (RESTREPO, MATEY and CHUNG, Circuit Judges) The foregoing motions are denied. Appellant is advised that the Court will not accept or consider any further motions in this case. If Appellant wants further review, he may file a petition for writ of certiorari with the U.S. Supreme Court. Restrepo, Authoring Judge. (TMM)

Notice will be electronically mailed to:

Kegan S. Andeskie

Rafael Paredes

Melissa E. Rhoads, District/Bankruptcy Clerk

Robin H. Rome

The following document(s) are associated with this transaction:

Document Description: Court Order Filed

Original Filename: order_court_f_060625.pdf

Electronic Document Stamp:

[STAMP acecfStamp_ID=1107201326
[Date=06/06/2025] [FileNumber=5373825-0]
[7719a8698d5b5a60b0347784d93e2e2b8a02ff7312d

NOT PRECEDENTIAL

**UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT**

No. 24-1585

**RAFAEL PAREDES,
Appellant**

v.

**UNITED AIRLINES, INC.; JOHN DOE 1-20, Fictitious Business
Entities; TOM ROE 1-20, Fictitious Persons; RAUL VENTURA**

**On Appeal from the United States District Court
for the District of New Jersey
(D.C. Civil Action No. 2-21-cv-17091)
District Judge: Honorable Julien Xavier Neals**

**Submitted Pursuant to Third Circuit LAR 34.1(a)
December 4, 2024**

Before: RESTREPO, MATEY, and CHUNG, Circuit Judges

(Opinion filed: December 17, 2024)

OPINION*

PER CURIAM

* This disposition is not an opinion of the full Court and pursuant to I.O.P. 5.7 does not constitute binding precedent.

Rafael Paredes appeals from an order dismissing his second amended complaint under Fed. R. Civ. P. 12(b)(6). We will affirm.

I.

Paredes is a former employee of United Airlines, Inc. Through counsel, he filed this action raising claims under federal and New Jersey law that United discriminated against him on the basis of his race and age and retaliated against him for, *inter alia*, filing a complaint with the Equal Employment Opportunity Commission. He also asserted a claim under New Jersey law for intentional infliction of emotional distress.

On United Airlines' motion, the District Court dismissed Paredes's complaint but did so in part without prejudice. Paredes then filed an amended complaint and later filed a second amended complaint. United Airlines filed a motion to dismiss the second amended complaint too. The court heard argument on the motion and then granted it and dismissed the second amended complaint for the reasons it stated on the record. Although Paredes was counseled at all times before the District Court, he appeals pro se.¹

¹ The District Court had jurisdiction under 28 U.S.C. § 1331 over Paredes's federal claims, and we understand it to have exercised supplemental jurisdiction under 28 U.S.C. § 1337 over his state-law claims. We have jurisdiction under 28 U.S.C. § 1291. We review the dismissal of a complaint *de novo*. See Kalu v. Spaulding, 113 F.4th 311, 324 (3d Cir. 2024). “To survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face. A claim is plausible on its face when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” Id. at 324-25 (cleaned up). In applying this standard, we accept as true only “well-pleaded factual allegations” and “disregard any allegations that are no more than conclusions.” Id. at 341 (cleaned up). We review a dismissal without leave to amend for abuse of discretion. See LabMD Inc. v. Boback, 47 F.4th 164, 192 n.22 (3d Cir. 2022).

II.

Paredes argues that his counsel performed deficiently in the District Court. In that regard, he has attached documents to his briefs and has filed a motion to supplement the record with still more documents, all of which he argues that his counsel should have submitted to the District Court. But we express no opinion on counsel's performance because "ineffective assistance of counsel is not a basis for appeal or retrial" in a civil action such as this. Nelson v. Boeing Co., 446 F.3d 1118, 1119 (10th Cir. 2006); see also Kushner v. Winterthur Swiss Ins. Co., 620 F.2d 404, 408 (3d Cir. 1980).

Paredes's reliance on documents that were not before the District Court is not a basis for relief on appeal either because, in the absence of exceptional situations not presented here, "[t]he only proper function of a court of appeals is to review the decision below on the basis of the record that was before the district court." Acumed LLC v. Advanced Surgical Servs., Inc., 561 F.3d 199, 226 (3d Cir. 2009) (quoting Fassett v. Delta Kappa Epsilon (N.Y.), 807 F.2d 1150, 1165 (3d Cir. 1986)); see also Fed. R. App. P. 10(a) (defining the record on appeal).²

These points aside, Paredes does not challenge or even acknowledge the specific grounds on which the District Court dismissed his claims. Thus, we could deem any such challenge forfeited. See Kalu, 113 F.4th at 344 n.21. But United Airlines has briefed the

² We nevertheless have reviewed these documents, most of which consist of emails, other correspondence, internal United Airlines reports, and Paredes's medical records. None of these documents reveals any obvious basis for a plausible claim, let alone "establish[es] beyond any doubt" that Paredes pleaded or could plead such a claim in the District Court. Acumed LLC, 561 F.3d at 226.

merits and, having reviewed the merits, we agree with the District Court that Paredes's complaints failed to state any plausible claim to relief. Among other things, while Paredes's second amended complaint is replete with conclusory assertions that United Airlines took certain actions "because of" his age and ethnic background, those conclusory assertions are just that and Paredes did not plead any facts that raise any inference of discrimination. His allegations of retaliation were similarly conclusory, and he also failed to plead any outrageous conduct as necessary to state a claim for intentional infliction of emotional distress. Finally, we discern no abuse of discretion in declining to give Paredes a third chance to amend his complaint. We reach these conclusions even considering the documents that Paredes has submitted for the first time on appeal.

III.

For these reasons, we will affirm the judgment of the District Court. United Airlines' motion to strike Paredes's appendix (Appeal Docket No. 11), and its motion to strike documents appended to Paredes's reply brief (Appeal Docket No. 28), are granted. See Acumed LLC, 561 F.3d at 226. All other requests, including Paredes's motion to supplement the record, are denied.